

State Special Education Advisory Panel

Levels of Determination

Meets Requirements

Needs Assistance

Needs Intervention

Needs Substantial Intervention

A Primer for Panel
Members

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Overview

The evolution of special education has been interesting to observe. We have gone from a period in the 1970s and 1980s when we were securing physical access for students with disabilities. In the 1980s and 1990s, schools were concerned with paperwork and procedural safeguards. Today, special education is experiencing a period of accountability at the State and school district levels.

IDEA 2004 introduced a new process for States—the State Performance Plan (SPP)—made up of 20 compliance and performance indicators. The State reports progress on each indicator in their Annual Performance Report (APR).

Think of it this way...

The SPP is the State's IEP.

The APR is the annual review
of the SPP.

The State is accountable to show annual progress on each indicator. Data is collected from all school districts to arrive at a State performance. Each year (in February), the State submits their APR. The Office of Special Education Programs (OSEP) examines the APR and then makes a determination of one of four levels of performance for the State. The State makes a determination for each school district based on their own criteria.

Levels of Determination

IDEA 616(a)(1)(c)(i) and CFR 300.600(a) address the requirement for the U.S. Department of Education to place each State in one of four levels of determination based on information provided in the SPP through monitoring visits and other public information:

- Meets Requirements
- Needs Assistance
- Needs Intervention
- Needs Substantial Intervention

States are required to make determinations annual for their school district and early education programs. Most States make these determinations based upon the following criteria:

- Performance on certain SPP indicators
- Nature and length of time regarding any noncompliance
- Data—timely, reliable, and valid
- Audit findings
- Dispute resolution
- Compliance agreements

Determination and Enforcement

Based upon the information provided in the State's APR, monitoring visits, and other information, each State and school district will be placed in one of the following determinations; each level has certain enforcement consequences.

Level 1–Meets Requirements

The State and/or school district demonstrates the following:

- Substantial compliance on all compliance indicators
- Data is timely, valid, and reliable.
- Timely corrects noncompliance.

Level 2–Needs Assistance

For two consecutive years, the State and/or school district does not demonstrate substantial compliance on one or more of the compliance indicators.

- One or more indicators does not have reliable data.
- Does not demonstrate timely correction of noncompliance.

Enforcement Activities

- Advise the State/school district of sources of technical assistance.
- Direct use of State level/school district level funds to correct problem.
- Identify State/school district as high risk.

Level 3–Needs Intervention

Means that the State/school district has not demonstrated the following for three consecutive years:

- Substantial compliance on one or more of the compliance indicators
- One or more indicators without reliable data
- Correction of noncompliance

Enforcement Activities

- Any from Needs Assistance level
- Prepare corrective action plan.
- Compliance agreement
- Withhold a percentage of federal funds

Level 4—Needs Substantial Intervention

Means that the State/school district has failed to substantially comply, and those actions affect the core requirements of the program and services to children with disabilities. The State/school district has informed the Department it is unwilling to comply.

Enforcement Activities

- Any mentioned in levels 2–3
- Recover funds.
- Withhold further payments.
- Refer to Inspector General or enforcement action.

Stakeholder Involvement

It is important for the State to include stakeholder involvement in the levels of determination process. Most States will use their State Special Education Advisory Panels and/or Interagency Coordinating Councils (Part C). Many of the functions listed in the IDEA regulations are a natural fit in relation to the level of determination, including these:

- Advise on rules and regulations.
- Comment on data submitted.
- Advise on corrective action plans.

Possible roles of the panel or stakeholder group include those given here:

- Assist in developing the criteria for the determinations.
- Develop panel priorities based upon State/school district levels.
- Make decisions and provide advice based upon APR data and levels of determination.
- Provide advice to the State on improvement strategies to improve levels of performance.

Be a partner with the State in understanding and providing suggestions to improve data systems and performance on each of the 20 indicators. Remember, each time the performance improves, student results increase.

For more information

State Department of Education
